

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

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In the Matter of License 6389D (Application 7641D)

**ORDER ADDING POINTS OF REDIVERSION DIRECTING ISSUANCE  
OF SEPARATE LICENSES, AND REVOCATION OF ORIGINAL LICENSE**

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SOURCE: Sacramento River

COUNTY: Sutter County

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**WHEREAS:**

1. License 6389-D was issued to William Nicholas on July 7, 1961 pursuant to Application 7641 and was recorded with the County Recorder of Sutter on July 10, 1961.
2. On December 30, 1986, the Sacramento Superior Court issued Stipulated Interlocutory Judgement No. 63832 separating the interests of the beneficiaries for the Estate of William Nicholas.
3. A Petition for Change was received by the State Water Resources Control Board (SWRCB) on March 14, 1988 requesting division of License 6389D between the the following beneficiaries for the Estate of William Nicholas: Nicoli G. Nicholas, Maria Nicholas Kelly and Eugenia Nicholas Murdock as directed by the Sutter Court, Stipulated Judgement No. 63832. Additionally the petition requested changes in the points of diversion, rediversion and places of use.
4. The SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on October 15, 1999 and no protests were received.
5. The license terms for the continuing authority and water quality objectives of the SWRCB should be updated to conform to Section 780(a) & (b), Title 23 of the California Code of Regulations.
6. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.

**NOW, THEREFORE, IT IS ORDERED THAT Permit 20387 IS AMENDED TO READ AS FOLLOWS:**

1. License 6389D be replaced by License 6389D1, 6389D2, and 6389D3.
2. Superseded License 6389D is hereby revoked upon the issuance of Licenses 6389D1 to Nicoli G. Nicholas, License 6389D2 issued to Maria Nicholas Kelly and License 6389D3 issued to Eugenia Nicholas Murdock.
3. Separate Licenses be issued as follows:

**License 6389D1**

**Application 7641D1**

Owner: Nicoli G. Nicholas  
4705 T Street  
Sacramento, CA 95819

Source: Sacramento River in Sutter County

Use: Irrigation

Amount: 2.1 cubic feet per second (cfs)

Maximum Annual

Use: 761 acre-feet per annum (afa)  
(In conjunction with License 7064A not to exceed 5033 afa)  
The equivalent of such continuous flow allowance for any  
thirty-day period may be diverted in a shorter time if there  
be no interference with other vested rights; and provided  
further that all terms and conditions protecting instream  
beneficial uses to be observed.

Season: April 1 to September 30

Point of

Diversion:

(A) North 900 feet and West 1,700 feet from the SE corner of  
projected Section 23, T11N, R3E, MDB&M, being within  
the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as  
California Coordinate System of 1927, Zone 2, N 406,000 and  
E 2,113,000.

Point(s) of  
Rediversion:

(1) South 18° 00' East 1,000 feet from the NW corner of projected  
Section 24, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of  
NW $\frac{1}{4}$  of said Section. Also described as California Coordinate  
System of 1927, Zone 2, N 409,550 and E 2,114,809.

- (2) South 50 feet West 375 feet from the NE corner of projected Section 23, T11N, R3E, MDB&M, being within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 410,450 and E 2,114,125.
- (3) North 60° 00' West 800 feet from the SE corner of projected Section 14, T11N, R3E, MDB&M, being within the SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 410,900 and E 2,113,807.
- (4) North 1,420 feet and West 1,175 feet from the SE corner of projected Section 14, T11N, R3E, MDB&M, being within the NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 411,920 and E 2,113,325.
- (5) South 1,350 feet and West 300 feet from the NE corner of projected Section 14, T11N, R3E, MDB&M, being within SE $\frac{1}{4}$  of NE  $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 414, 250 and E 2,114,200.

Place of Use: 119.3 acres net within a gross area of 776 acres within projected Sections 13, 14, 23, and 24, T11N, R3E, MDB&M, as shown on a map filed with the SWRCB and identified by the County APN 34-140-006 and 34-190-007.

**License 6389D2**

**Application 7641D2**

Owner: Maria Nicholas Kelly  
6918 - 75th Street So. West  
Tacoma, WA 98498

Source: Sacramento River in Sutter County  
Use: Irrigation  
Amount: 2.1 cubic feet per second (cfs)  
Maximum Annual Use: 761 acre-feet per annum (afa)  
(In conjunction with License 7064B not to exceed 5,033afa)  
The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with other vested rights and instream beneficial uses; and provided further that all terms and conditions protecting instream beneficial uses to be observed.

Season: April 1 to September 30

Point(s) of  
Diversion:

- (A) North 900 feet and West 1,700 feet from the SE corner of projected Section 23, T11N, R3E, MDB&M, being within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 406,000 and E 2,113,000.

Point(s) of  
Rediversion:

- (1) South 18° 00' East 1,000 feet from the NW corner of projected Section 24, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 409,550 and E 2,114,809.
- (7) South 27° 00' East 360 feet from the NW corner of projected Section 13, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 415,279 and E 2,114,663.
- (10) North 2,690 feet and East 1,650 feet from the SW corner of projected Section 1, T11N, R3E, MDB&M, being within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of 1927, Zone 2, N 423,790 and E 2,116,150.

Place of use: 119.3 acres net within a gross area of 826 acres within projected Sections 2, 11, and 14, T11N, R3E, MDB&M with the SWRCB, and identified by County APN 34-130-003, 34-130-004, 34-140-005, and 34-080-004.

**License 6389D3**

**Application 7641D3**

Owner: Eugenia Nicholas Murdock  
Route 2, P.O. Box 20AB  
Oakley, CA 94561

Source: Sacramento River in Sutter County  
Use: Irrigation  
Amount: 2.1 cubic feet per second (cfs)  
Maximum Annual Use: 761 acre-feet per annum (afa)

(In conjunction with License 7064C not to exceed 5,033 afa)  
The equivalent of such continuous flow allowance for any  
thirty-day period may be diverted in a shorter time if there  
be no interference with other vested rights and instream  
beneficial uses; and provided further that all terms and  
conditions protecting instream beneficial uses to be observed.  
April 1 to September 30

Season:  
Point(s) of  
Diversion:

- (A) North 900 feet and West 1,700 feet from the SE corner of projected  
Section 23, T11N, R3E, MDB&M, being within the SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of  
said Section. Also described as California Coordinate System of 1927,  
Zone 2, N 406,000 and E 2,113,000.

Point(s) of  
Rediversion:

- (1) South 18° 00' East 1,000 feet from the NW corner of projected  
Section 24, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of  
NW $\frac{1}{4}$  of said Section. Also described as California Coordinate System of  
1927, Zone 2, N 409,550 and E 2,114,809.
- (6) South 1,110 feet and West 50 feet from the NE corner of projected  
Section 14, T11N, R3E, MDB&M, being within the NE $\frac{1}{4}$  of NE $\frac{1}{4}$  of said  
Section. Also described as California Coordinate System of 1927, Zone 2,  
N 414,490 and E 2,114,450.
- (8) North 2,260 feet and West 1,775 feet from the SE corner of projected  
Section 12, T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of SE $\frac{1}{4}$  of  
said Section. Also described as California Coordinate System of 1927,  
Zone 2, N 414,860 and E 2,114,725.
- (9) North 35°30' East 2,120 feet from the SW corner of projected Section 1,  
T11N, R3E, MDB&M, being within the NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section.  
Also described as California Coordinate System of 1927, Zone 2,  
N 422,826 and E 2,115,731.

Place of Use:

119.3 acres net within a gross area of 747 acres within projected  
Sections 1, 12, and 13, T11N, R3E, MDB&M, and shown on map dated  
March 1988 on file with the SWRCB.

4. License 6389D1, 6389D2 and 6389D3 shall contain all other terms and conditions presently in License 6389-D or updated terms to reflect for compliance with the SWRCB's policy.

5. The continuing authority condition shall be updated and read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of Water diverted, are subjected to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific Requirements over and above those contained in this permit with a view to eliminating Waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to Implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate for the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

6. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this permit is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of

the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that: (1) adequate waste discharges requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

7. The addition of a condition to the license that read as follows:

Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stone4s. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by their Chief of the Division of Water Rights.

(0380500)

8. The addition of a condition to the license that read as follows:

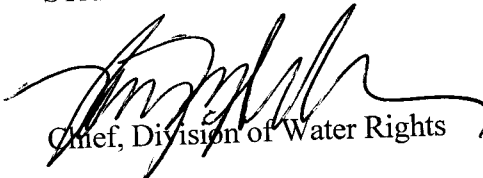
This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 5131 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

Dated:

JAN 05 2001

STATE WATER RESOURCES CONTROL BOARD

  
Chief, Division of Water Rights



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

APPLICATION 7641

PERMIT 4215

LICENSE 6389-D

THIS IS TO CERTIFY, That

William Nicholas  
Ramona Hotel  
6th and J Streets  
Sacramento, California

Notice of Change (Over)

has made proof as of December 30, 1960,

(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of  
Sacramento River in Sutter County

tributary to Suisun Bay

for the purpose of irrigation use

under Permit 4215 of the State Water Rights Board and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the terms of the said permit; that the priority of the right herein confirmed dates from August 4, 1933 and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed six and three-tenths (6.3) cubic feet per second to be diverted from about April 1 to about September 30 of each year.

The equivalent of such continuous flow allowance for any thirty-day period may be diverted in a shorter time if there be no interference with other vested rights.

The point of diversion of such water is located:

North nine hundred (900) feet and west one thousand seven hundred (1700) feet from SE corner of Section 23, T11N, R3E, MDB&M, being within SW $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 23.

The points of redirection of such water are located:

(1) South eighteen degrees east (S18°E) one thousand (1000) feet from NW corner of Section 24, T11N, R3E, MDB&M, being within NW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 24.

(2) South twenty-three degrees east (S23°E) one thousand four hundred forty (1440) feet from NW corner of Section 13, T11N, R3E, MDB&M, being within SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 13.

(3) North thirty-five degrees thirty minutes east (N35° 30'E) two thousand one hundred twenty (2120) feet from SW corner of Section 1, T11N, R3E, MDB&M, being within NW $\frac{1}{4}$  of SW $\frac{1}{4}$  of said Section 1.

A description of the lands or the place where such water is put to beneficial use is as follows:

358 acres net within a gross area of 382.8 acres within Sections 1 and 12, T11N, R3E, MDB&M, as shown on map filed with State Water Rights Board.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.



This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code), or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: JUL 7 1961

L. K. Hill  
Executive Officer



12/1/67 RECEIVED NOTICE OF ASSIGNMENT TO

of interest of William Nicholas  
Estate of William Nicholas

LICENSE  
6389-D  
STATE OF CALIFORNIA  
STATE WATER RIGHTS BOARD

ISSUED TO William Nicholas

DATED JUL 7 1961

20042 11-50 31 500